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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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1711

03/15/01

WOODWARD, A

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AD0571

WILLIAM H. HANBY
E. I. DU PONT DE NEMOURS AND COMPANY
LEGAL PATENTS
WILMINGTON DE 19898

1711

EXAMINER

WOODWARD, A

ART UNIT

PAPER NUMBER

1711

DATE MAILED: 03/15/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3/1/00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-5 is/are pending in the application.
- Of the above claim(s) 3 is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 1, 2, 4 and 5 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☒ Claim(s) 1-5 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, 2, 4 and 5, drawn to a composition.

Group II, claim 3 drawn to an article.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Claims 1, 2, 4 and 5 are anticipated or obvious over, e.g., EP 0,104,436, EP 0,580,387.

As the recited composition does not make a contribution over the prior art, unity of invention is lacking and restriction is appropriate.

3. During a telephone conversation with Mr William H. Hamby on March 12, 2001 a provisional election was made with traverse to prosecute the invention of Group I, claims 1, 2, 4 and 5. Affirmation of this election must be made by applicant in replying to this Office action. Claim 3 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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4. This application further contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows

- i) the compositions according to claim 1 but different from those defined in present claims 2 and 5;
- ii) the compositions according to claim 2; and
- iii) the compositions according to claim 5.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

5. The claims are deemed to correspond to the species listed above in the following manner:
- i) claim 1;
 - ii) claims 1, 2 and 4; and
 - iii) claims 1 and 5.

The following claim(s) are generic: claim 1.

6. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the polyamide compositions are anticipated by or obvious over known prior art.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

8. Claim 1, 2, 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the recitation of component (A) is indefinite because it is not understood what is meant by the language "a molar fraction of aromatic monomers among components of said polyamide of at least 0.2" and further because it is unclear as to whether the polyamide contains "the monomer components" as unreacted monomers as opposed to units derived therefrom.

In claims 1, 2 and 5, components A and B overlap in scope and read on one another. In this regard, it is noted that polyamide A also contains aliphatic moieties.

In claims 2 and 5, it is unclear as to whether the polyamide contains unreacted acid and diamine components as opposed to units derived therefrom.

The recitation of claim 4 is awkward and confusing.

Claim Rejections - 35 USC § 102/103

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 0,580,387.

EP '387 discloses a polyamide molding composition comprising (A) a polyamide composed of xylylenediamine and aliphatic dicarboxylic acid and (B) and polyamide 66. Since the compositions of the reference are the same as those of the above rejected claims, there is a reasonable basis to presume that the former would inherently be suitable for welding.

12. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 0,488,335.

EP '335 discloses a thermoplastic molding composition comprising (A) an aromatic polyamide comprising dicarboxylic acid units comprising 50-100 mol% of units derived from terephthalic acid and 0-50 mol% of units derived from an aliphatic dicarboxylic acid and aliphatic diamine units, (B) a grafted olefin polymer and (C) an aliphatic polyamide. Since the

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compositions of the reference are the same as those of the above rejected claims, there is a reasonable basis to presume that the former would inherently be suitable for welding.

Claim Rejections - 35 USC § 103

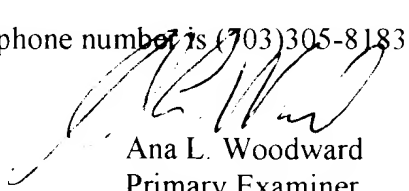
13. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0,580,387 described hereinabove.

The reference does not expressly exemplify polyamides meeting the terms of applicants' polyamide A. The reference at page 3, lines 8-17 teaches that the polyamide may contain, besides the xylylenediamine component and the aliphatic dicarboxylic acid, an aliphatic diamine and an aromatic dicarboxylic acid. Accordingly, the use of polyamide meeting the terms of applicants' polyamide A would have been obvious to one having ordinary skill in the art.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana L. Woodward whose telephone number is (703) 308-2401. The examiner can normally be reached on Monday-Friday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (703) 308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-8183.



Ana L. Woodward
Primary Examiner
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